Decision No. C20-0899

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 20R-0537EG

IN THE MATTER OF EMERGENCY RULES MODIFYING COST RECOVERY FOR LOW-INCOME PROGRAMS OFFERED BY ELECTRIC AND NATURAL GAS UTILITIES PURSUANT TO 4 CODE OF COLORADO REGULATIONS 723-3-3412 AND 723-4-4412.

COMMISSION DECISION ADOPTING EMERGENCY RULES

Mailed Date: December 16, 2020
Adopted Date: December 16, 2020

I. BY THE COMMISSION

A. Statement

1. By this Decision, we adopt emergency rules to amend the Commission's Rules Regulating Electric Utilities, 4 *Code of Colorado Regulations* (CCR) 723-3 (Electric Rules) and Rules Regulating Gas Utilities and Pipeline Operators, 4 CCR 723-4 (Gas Rules). The emergency rules revise Electric Rule 3412 and Gas Rule 4412 as they relate to cost recovery associated with income-based Percentage of Income Payment Plan (PIPP) Programs offered by regulated utilities, thus allowing for immediate PIPP Program expansion.

2. This rulemaking satisfies the requirements of § 24-4-103(6)(a), C.R.S. Given the ongoing novel coronavirus (COVID-19) pandemic that is driving economic and employment challenges, and the critical nature of energy for health, welfare and safety, we find it imperatively necessary to increase the cap for the allowable surcharge that utilities may assess all customers from $0.31 to $1.00 in order to provide targeted low-income residential bill assistance. Increasing the cap for this surcharge through emergency rule allows utilities whose PIPP

Programs are currently budget-constrained to expand their available programs in time to provide relief to income-qualified customers this heating season, when the need is greatest.

3. These emergency rules are effective for the earlier of 210 days from the effective date of this decision, or until the Commission issues permanent rules replacing these emergency rules. *See* § 40-2-108(2), C.R.S.

B. Discussion

4. Electric Rule 3412 and Gas Rule 4412 require regulated utilities to provide energy assistance to low-income customers as defined by § 40-3-106, C.R.S. Per statute, eligible low-income customers are those who have a household income at or below 185 percent of the current federal poverty level (FPL) and who otherwise meet the eligibility criteria set forth in Department of Human Services rules adopted pursuant to § 40-8.5-105, C.R.S. For practical purposes, and based on Electric Rule 3412(c) and Gas Rule 4412(c), customers are automatically enrolled in PIPP Programs after they are enrolled in the Low-Income Energy Assistance Program (LEAP), which is administered by the Colorado Department of Human Services. To enroll in LEAP, customers must demonstrate their prior 30 days' income and information regarding their citizenship or legal residency status.

5. Under Electric Rule 3412(e) and Gas Rule 4412(e), PIPP Programs include two important components: an affordable payment plan and a process for providing arrearage credits. The affordable payment plan applies to forward-looking bills. PIPP Program participants' bills are reduced to an "affordable percentage of income," which varies depending on primary heating fuel, but is generally two to six percent. The arrearage credits apply to backward-looking debts. Utilities must allow PIPP Program participants to reduce their arrearages to $0.00 over not more than 24 months based on receiving regular bill payments.

6. PIPP Programs are funded by a surcharge on customers' bills that varies by customer class, pursuant to Electric Rule 3412(g) and Gas Rule 4412(g). Residential customers pay a fixed fee that is currently capped at $0.31 per month. Costs are allocated to other rate classes based on their share of test year revenue requirements established in the utility's last Phase II rate case, or through another reasonable, quantifiable methodology. Revenues collected under these fees may fund program credits for current usage, program credits to reduce pre-existing arrearages, program administrative costs (which are capped), and program evaluation costs.

7. Colorado has been in a state of disaster emergency due to COVID-19 since March 11, 2020. Governor's Executive Orders have directed the Commission to "work with all public utilities to develop and provide payment assistance programs to aid customers, particularly customers qualified for the Low Income Energy Assistance Program, in the payment of their utility bills, related to the impacts of COVID-19."[1] These directives have continued to the present time.[2]

8. Colorado continues to see an increase in reported COVID-19 cases. According to the Colorado Department of Public Health and the Environment, about 150,000 positive COVID-19 cases were reported to the state in the month of November 2020.[3]

9. Colorado unemployment levels have increased significantly since the beginning of 2020 and unemployment may continue to increase because personal and commercial bankruptcies may lag in a recession. Furthermore, approximately 60,000 Coloradans are

[1] Governor's Executive Order D 2020 012 dated March 20, 2020.

[2] Governor's Executive Order D 2020 270 dated December 3, 2020.

[3] https://covid19.colorado.gov/data (last visited December 10, 2020).

expected to face expiration of unemployment benefits that were extended under the CARES Act at the end of the year.[4]

10. Utilities and the Commission have taken steps to respond to COVID-19, including the suspension of late payment fees and disconnection or reconnection fees[5] and customer outreach to notify customers of payment plan and bill assistance options to avoid larger arrears or discontinuance of service.[6] By Decision No. R20-0664-I in Proceeding No. 20M-0267EG, issued September 16, 2020, the Commission required regulated utilities to submit information on arrears and disconnections on a monthly basis. Information submitted demonstrates that most utilities are experiencing significant increases in both the number of residential customers in arrears and the amount of active arrears.

11. At this time, most regulated utilities have resumed issuing notices of disconnections, and are believed to be conducting field disconnections. Regulated utilities have voluntarily adjusted the terms under which they are disconnecting customers to raise the thresholds for past-due bills that are subject to disconnection. However, as of September 30, 2020, per the reports submitted in Proceeding No. 20M-0267EG on October 15, 2020, approximately 15,000 residential customers were eligible for disconnection of electric or gas service, or both, unless they were able to pay past-due bills, receive bill assistance, or enter payment plans.

12. Pursuant to Electric Rule 3412(k) and Gas Rule 4412(k), on October 13, 2020, the Evaluation of the Percentage of Income Payment Plans Final Report, prepared by ADM Energy

[4] https://www.cpr.org/2020/11/29/unemployment-and-housing-benefits-are-expiring-colorado-will-try-to-stop-the-bleeding-with-a-modest-stimulus/

[5] *See, e.g.*, Proceeding Nos. 20V-0133G; 20V-0150EG; 20V-0152G; 20V-0154E; 20V-0158G.

[6] *See generally* Proceeding No. 20M-0267EG.

Research and Evaluation (Triennial Report) was submitted into Proceeding No. 20M-0013EG. On October 28, 2020, the Commission held a Commissioners' Information Meeting (CIM) regarding the Triennial Report. This CIM also included presentations from the Colorado LEAP program and Energy Outreach Colorado (EOC) which were posted on the Commission website.

13. The Triennial Report found that two utilities, Black Hills Colorado Electric (BHCE), and Colorado Natural Gas (CNG), are at the current maximum $0.31 per month funding fee. BHCE has a wait list for its program, meaning it cannot serve all the customers who would otherwise qualify for low income energy assistance.[7] The Triennial Report recommended that BHCE increase its monthly residential surcharge by $0.54, to $0.85, to fully fund its waitlist, based on the 2018/2019 program year period.[8] While CNG does not have a wait list, CNG does have a practice of providing a one-time low-income energy assistance payment to each qualified customer rather than monthly payments. If CNG receives an increase in applications, the ability of the program to serve all customers who qualify could be at risk.

14. At the CIM, EOC, which serves people with energy assistance needs through a variety of programs, reported that applications are up 25 percent compared to the same time last year.[9] EOC reported that 48 of 64 Colorado counties are underfunded for bill assistance and that it anticipates liquidating 25 percent of its reserves to maintain 2018-2019 funding levels in 2020-2021, but is likely to run out of energy assistance funding in Spring 2021.[10] LEAP reported

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[7] Proceeding No. 20M-0013EG, ADM Energy Research and Evaluation, Evaluation of the Percentage of Income Payment Plans Final Report (October 13, 2020), at p. 53.

[8] *Id*. at line labeled "additional monthly charge per residential customer."

[9] Energy Outreach Colorado, Triennial Review of Utility IQ Programs, Commissioners' Information Meeting (October 28, 2020), *available at* https://drive.google.com/file/d/1e-vee8HLxr5htLJHbyuqKleg7Smj3Z20/view.

[10] *Id*.

an increase in applications of 15 percent for program year 2019-2020 over program year 2018-2019.[11]

15. In October 2020, the National Consumer Law Center submitted to the Commission a report titled “Utility Bill Affordability in Colorado: Reforms to Protect Low-Income Consumers from Increasing Rates” (Affordability Report).[12] The Affordability Report explains that the current $0.31 residential bill impact “is far less than the residential bill impacts in states with large-scale, comprehensive bill affordability programs,” and recommends that regulated utilities implement a fee of $1.00 per month in order to increase funding for PIPP Programs.[13]

C. Findings and Conclusions

16. The Commission may adopt emergency temporary rules without engaging in the processes required for a permanent rule if the agency finds that “immediate adoption of the rule is imperatively necessary to comply with a state or federal law or federal regulation or for the preservation of public health, safety, or welfare and compliance with [permanent rulemaking] requirements . . . would be contrary to the public interest.” § 24-4-103(6)(a), C.R.S. For the reasons stated below, we find that immediate adoption of these emergency rules is imperatively necessary to provide for the health, safety and welfare of the public.

17. Access to energy is critical in a period in which Coloradans are being encouraged to stay home for health and safety reasons. Residents rely on electricity and natural gas in order to safely and comfortably work from home or educate their children from home.

[11] Colorado Department of Human Services, Low-Income Energy Assistance Programs, Commissioners' Information Meeting (October 28, 2020), *available at* https://drive.google.com/file/d/1m6CcAA54uhUBHhAUxuSACSAJZOwQtC44/view.

[12] Proceeding No. 20M-0267EG, Decision No. R20-0842-I, issued December 7, 2020, Attachment A.

[13] *Id*. at 21-24.

18. Energy assistance allows Coloradans who qualify as low income not to have to choose between basic needs or paying their utility bill. Utility-run PIPP programs are a vital part of energy affordability for many low-income Coloradans. These emergency rules will increase the number of low-income Coloradans who can be assisted by these programs and will help ensure that low-income energy assistance programs continue to provide assistance to those who need it this winter and spring.

19. We find that increasing the maximum allowed impact on residential rates to $1.00 is consistent with recommendations in the Triennial Report and Affordability Report and should provide sufficient funding to expand PIPP programs to customers on program waitlists and some customers who have recently become eligible for the programs or who will become eligible this heating season.

20. The heating season and LEAP application season began on November 1, 2020. We find that the time necessary to conduct a permanent rulemaking on this issue would result in Coloradans who qualify as low-income pursuant to Commission Rules and § 40-3-106, C.R.S., being denied low-income energy assistance. Therefore, we find that immediate adoption of emergency rules to authorize utilities to increase the cap on the residential surcharge from $0.31 to $1.00 per month in order to expand PIPP Programs this heating season is imperatively necessary to preserve public health, safety, and welfare, and that complying with the longer permanent rulemaking timeline provided by § 24-4-103, C.R.S., would be contrary to the public interest. We will consider engaging in a permanent rulemaking to address appropriate residential bill impact levels for long-term sustainability and cost recovery for low-income programs, as well as take into account recommendations from the recently completed Triennial Review.

21. We therefore adopt emergency rules modifying cost recovery for low income programs offered by electric and natural gas utilities. These emergency rules modify the maximum residential bill impact allowed in Electric Rule 3412(g)(II)(B) and Gas Rule 4412(g)(II)(B) from $0.31 to $1.00 to allow as many Coloradans as possible access to energy assistance during the 2020-2021 program year.

22. The emergency rules shall become effective immediately and shall remain in effect until permanent rules become effective or for 210 days, whichever period is less.

23. The emergency rules for electric utilities 4 CCR 723-3 in legislative (strikeout/underline) format and the emergency rules in final version format (Attachments A and B) and the emergency rules for gas utilities 4 CCR 723-4 in legislative (strikeout/underline) format and the emergency rules in final version format (Attachments C and D) are available through the Commission's E-Filings system[14] at:

> https://www.dora.state.co.us/pls/efi/EFI.Show_Docket?p_session_id=&p_docket_id=20R-0537EG

24. Electric or natural gas utilities seeking to file a revised advice letter and tariff in response to these rules shall do so as soon as practicable, on not less than two business days' notice. We expect utilities which are currently unable to serve all low-income customers who have qualified through the LEAP application under their existing fee surcharge will promptly file a revised advice letter and tariff with an increased surcharge up to $1.00 to serve as many qualified low-income customers as possible. We encourage regulated utilities to consider the likelihood that demand for these PIPP Programs will continue to increase as the COVID-19

[14] From the *Electronic Filings* (E-Filings) system page (https://www.dora.state.co.us/pls/efi/EFI.homepage), the rules can be accessed by selecting "*Search*" and entering this proceeding number (20R-0537EG) in the "*Proceeding Number*" box and then selecting "Search".

pandemic continues, and to file their advice letter with an appropriate increase. We also encourage utilities to consider additional customer outreach to inform low-income customers who may not be familiar with the utility's PIPP Program of the Program's existence.

II. ORDER

A. The Commission Orders That:

1. The rules in final version format available in this proceeding through the Commission's E-Filings system are hereby adopted as emergency rules consistent with the discussion above.

2. The emergency rules shall be effective on the mailed date of this Decision.

3. Electric or natural gas utilities seeking to increase their currently assessed residential monthly surcharge for low-income residential bill assistance shall file, in a new proceeding, an advice letter and tariff in response to these rules, shall do so as soon as practicable, and on not less than two business days' notice.

4. The 20-day period provided in § 40-6-114, C.R.S., within which to file applications for rehearing, reargument, or reconsideration, begins on the first day following the effective date of this Decision.

5. This Decision is effective upon its Mailed Date.

B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING December 16, 2020.

(S E A L)

ATTEST: A TRUE COPY

Doug Dean

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

JEFFREY P. ACKERMANN

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JOHN GAVAN

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MEGAN M. GILMAN

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Commissioners

COLORADO DEPARTMENT OF REGULATORY AGENCIES

Public Utilities Commission

4 *CODE OF COLORADO REGULATIONS* (CCR) 723-4

PART 4
RULES REGULATING GAS UTILITIES AND PIPELINE OPERATORS

4412. Gas Service Low-Income Program.

(a) Scope and applicability.

(I) Gas utilities with Colorado retail customers shall provide low-income energy assistance by offering rates, charges, and services that grant a reasonable preference or advantage to residential low-income customers, as permitted by § 40-3-106, C.R.S.

(II) Rule 4412 is applicable to investor-owned gas utilities subject to rate regulation by the Commission.

(b) Definitions. The following definitions apply only in the context of rule 4412. In the event of a conflict between these definitions and a statutory definition, the statutory definition shall apply.

(I) “Administrative cost” means the utility’s direct cost for labor (to include the cost of benefit loadings), materials, and other verifiable expenditures directly related to the administration and operation of the program not to exceed ten percent of the total cost of program credits applied against bills for current usage and pre-existing arrearages or $10,000, whichever amount is greater.

(II) “Affordable percentage of income payment” means the amount of the participant’s annual bill deemed affordable under subparagraph 4412(e)(I).

(III) “Arrearage” means the past-due amount appearing, as of the date on which a participant newly enters the program, on the then most recent prior bill rendered to a participant for which they received the benefit of service.

(IV) “Colorado Energy Office” (CEO) means the Colorado Energy Office created in § 24-38.5-101, C.R.S.

(V) “Eligible low-income customer” means a residential utility customer who meets the household income thresholds pursuant to paragraph 4412(c).

(VI) “Fixed credit” means an annual bill credit established at the beginning of a participant’s participation in a program each year delivered as a monthly credit on each participant’s bill. The fixed credit is the participant’s full annual bill minus the participant’s affordable percentage of income payment obligation on the full annual bill.

(VII) "Full annual bill" means the current consumption of a participant billed at standard residential rates. The full annual bill of a participant is comprised of two parts: (1) that portion of the bill that is equal to the affordable percentage of income payment; and (2) that portion of the bill that exceeds the affordable percentage of income payment.

(VIII) "LEAP" means Low-Income Energy Assistance Program, a county-run, federally-funded, program supervised by the Colorado Department of Human Services, Division of Low-Income Energy Assistance.

(IX) "LEAP participant" means a utility customer who at the time of applying to participate in a program has been determined to be eligible for LEAP benefits by the Department during either the Department's current six-month (November 1 – April 30) LEAP application period, if that period is open at the time the customer applies for program participation; or (the Department's most recently closed six-month (November 1 – April 30) LEAP application period, if that period is closed at the time the customer applies to participate in the program and the Department's next six-month (November 1 – April 30) LEAP application period has not yet opened, provided, however, that in order to retain status as a LEAP participant under this definition, the utility customer must apply to the Department during the Department's next six-month (November 1 – April 30) LEAP benefit application period and be determined eligible for such benefits.

(X) "Non-participant" means a utility customer who is not receiving low-income assistance under rule 4412.

(XI) "Participant" means an eligible low-income residential utility customer who is granted the reasonable preference or advantage through participation in a gas service low-income program.

(XII) "Percentage of Income Payment Plan" (PIPP) means a payment plan for participants that does not exceed an affordable percentage of their household income as set forth in subparagraph 4412(e)(I).

(XIII) "Program" means a gas service low-income program approved under rule 4412.

(XIV) "Program credits" means the amount of benefits provided to participants to offset the unaffordable portion of a participant's utility bill and /or dollar amounts credited to participants for arrearage forgiveness.

(XV) "Unaffordable portion" means the amount of the estimated full annual bill that exceeds the affordable percentage of income payment.

(c) Participant eligibility. Eligible participants are limited to those with a household income at or below 185 percent of the current federal poverty level and who otherwise meet the eligibility criteria set forth in rules of the Colorado Department of Human Services adopted pursuant to § 40-8.5-105, C.R.S.

(I) The utility shall obtain household income information from LEAP.

(II) If a participant's household income is $0, the utility may establish a process that verifies income on a more frequent basis.

(III) Program participants shall not be required to make payment on their utility account as a condition of entering into the program.

(d) Enrollment. Utilities shall be responsible for the methods by which participant enrollment in their approved low income program is obtained and sustained, however the utility should engage in enrollment processes that are efficient and attempt to maximize the potential benefits of participation in the low income program by low income customers.

(e) Payment plan.

(I) Participant payments for natural gas bills rendered to participants shall not exceed an affordable percentage of income payment. For accounts for which natural gas is the primary heating fuel, participant payments shall be no lower than two percent and not greater than three percent of the participant's household income.

(II) In the event that a primary heating fuel for any particular participant has been identified by LEAP, that determination shall be final.

(III) Notwithstanding the percentage of income limits established in subparagraph 4412(e)(I), a utility may establish minimum monthly payment amounts for participants with household income of $0, provided that the participant's minimum payment for a natural gas account shall be no more than $10.00 a month.

(IV) Full annual bill calculation. The utility shall be responsible for estimating a participant's full annual bill for the purpose of determining the unaffordable portion of the participant's full annual bill delivered as a fixed credit on the participant's monthly billing statement.

(V) Fixed credit benefit. The fixed credit shall be adjusted during a program year in the event that standard residential rates, including commodity or fuel charges change to the extent that the full annual bill at the new rates would differ from the full annual bill upon which the fixed credits are currently based by 25 percent or more.

(VI) Levelized budget billing participation. A utility shall enroll participants in its levelized budget billing program as a condition of participation in the program. Should a participant fail to meet monthly bill obligations and be placed by a utility in its regular delinquent collection cycle, the utility may remove the participant from levelized budget billing in accordance with the utility's levelized budget billing tariff.

(VII) Arrearage credits.

(A) Arrearage credits shall be applied to pre-existing arrearages.

(B) Arrearage credits shall be sufficient to reduce, when combined with participant copayments, if any, the pre-existing arrearages to $0.00 over a period not less than one month and not more than twenty-four months.

(C) Application of an arrearage credit to a participant account may be conditioned by the utility on one or more of the following:

(i) the receipt of regular participant payments toward bills for current usage; or

(ii) the payment of a participant copayment toward the arrearages so long as the participant's copayment total dollar amount does not exceed one percent of gross household income.

(D) Should the participant exit the program prior to the full forgiveness of all pre-existing arrearages, the amount of remaining pre-existing arrearages shall become due in accordance with the utilities tariff filed under rules 4401, 4407, and 4408.

(E) Pre-existing arrears under this subparagraph shall not serve as the basis for the termination of service for nonpayment or as the basis for any other utility collection activity while the customer is participating in the program.

(F) A participant may receive arrearage credits under this section even if that participant does not receive a credit toward current bills, if the participant enters into and maintains a levelized budget billing plan.

(VIII) Portability of benefits. A participant may continue to participate without reapplication should the participant change service addresses, but remain within the service territory of the utility providing the benefit, provided that the utility may make necessary adjustments in the levelized budget billing amount to reflect the changed circumstances. A participant who changes service addresses and does not remain within the service territory of the utility providing the benefit must reapply to become a participant at the participant's new service address.

(IX) Payment default provisions. Failure of a participant to make his or her monthly bill payments will result in a utility placing the participant in its regular collection cycle. Missed, partial or late payments shall not result in the removal of a participant from the program.

(f) Program implementation.

Each utility shall maintain effective terms and conditions in its tariffs on file with the Commission describing its low-income program.

(g) Cost recovery.

(I) Each utility shall include in its low income tariff terms and conditions how costs of the program will be recovered.

(II) Program cost recovery.

(A) Program cost recovery shall be based on a fixed monthly fee.

(B) The maximum impact on residential rates shall be no more than $~~00.31~~<u>1.00</u> per month.

(C) In order to determine monthly rates applicable to rate classes other than residential, program costs shall be allocated to each retail rate based on each rate class’s share of the test year revenue requirement established in the utility’s last Phase II rate case, or under another reasonable methodology supported by quantifiable information. The monthly rate per this subparagraph to be charged each rate schedule customer shall be clearly stated on a tariff sheet.

(D) Utilities shall separately account for the cumulative program cost recovery and cumulative program and administrative costs to determine if the net of program cost recovery and program and administrative cost are in balance during the program year.

(i) Beginning October 31, 2018 and in each year thereafter, the utility shall file a report with the Commission in the most recent miscellaneous proceeding for annual low-income filings detailing the net difference between program cost recovery and program costs as of September 30 of each year.

(1) Should the net difference of program cost recovery over program costs be greater than 50 percent derived in (ii) above, either positive or negative, and the utility is not currently at the maximum impact for non-participants, the utility shall file with the Commission an advice letter and tariff pages seeking approval for the rates determined in subparagraph 4412(g)(II)(D) in order to bring the projected recovery in balance for the ensuing 12 month period. The revised Residential charge shall not exceed the maximum impact for non-participants in subparagraph 4412(g)(II)(C).

(III) The following costs are eligible for recovery by a utility as program costs:

(A) program credits or discounts applied against bills for current usage;

(B) program credits applied against pre-existing arrearages;

(C) program administrative costs; and

(D) Commission-sponsored program evaluation costs required under paragraph 4412(k).

(IV) The utility shall apply, as an offset to cost recovery, all program expenses attributable to the program. Program expenses include utility operating costs; changes in the return requirement on cash working capital for carrying arrearages; changes in the cost of credit and collection activities directly related to low-income participants; and changes in uncollectable account costs for these participants.

(V) LEAP grants.

(A) The utility shall apply energy assistance grants provided to the participant by the LEAP program to the dollar value of credits granted to individual program participants.

(B) A utility shall apply any energy assistance benefit granted to the participant by LEAP to that portion of the program participant's full annual bill that exceeds the participant's affordable percentage of income payment.

(C) If the dollar value of the energy assistance grant is greater than the dollar value of the difference between the program participant's full annual bill and the participant's affordable percentage of income payment, the dollar amount by which the energy assistance grant exceeds the difference will be applied:

(i) first, to any pre-existing arrearages that at the time of the energy assistance grant continues to be outstanding; and

(ii) second, to the account of the program participant as a benefit to the participant.

(D) No portion of an energy assistance or LEAP grant provided to a program participant may be applied to the account of a participant other than the participant to whom the energy assistance grant was rendered.

(h) Other programs. In addition to the utility's low-income program, with Commission approval, a utility may offer other rate relief options to eligible households.

(I) Other programs offered by the utility under rule 4412 must be intended to reach low-income households that do not substantially benefit from the provisions of the low-income program. Such programs may take the form of discount rates, tiered discount rates or other direct bill relief methods where the low-income household benefitting from the program is granted a reasonable preference in tariffed rates assessed to all residential utility customers.

(II) Cost recovery for other programs combined with the Percentage of Income Payment Plan shall not exceed the maximum impact on residential rates described in subparagraph 4412(g)(II)(C).

(i) Energy efficiency and weatherization.

(I) The utility shall provide all program participants with information on energy efficiency programs offered by the utility or other entities and existing weatherization programs offered by the state of Colorado or other entities.

(II) The utility shall provide the Colorado Energy Office with the name and service address of participant households for which annual natural gas usage exceeds 600 therms annually.

(j) Stakeholder engagement. A utility shall conduct annual meetings with low-income stakeholders for the purpose of seeking solutions to issues of mutual concern and aligning program practices with the needs of customers and other stakeholders.

(k) Program evaluation. A triennial evaluation of the program provisions under rule 4412 beginning in 2019 shall be undertaken in order to review best practices in similar low income assistance programs in existence in other regulatory jurisdictions, as well as evaluate operation of each utility's program for effectiveness in achieving optimum support being provided to low income participants. The evaluation shall also recommend modifications if available that improve the delivery of benefits to participants and increase the efficiency and effectiveness of each program as they exist at the point of evaluation.

(I) Procurement of the third-party vendor that will perform the evaluation will be undertaken by the Colorado Energy Office. The CEO shall seek the involvement of interested stakeholders including, but not limited to, Commission staff, all Commission regulated electric and gas utilities, LEAP, the Office of Consumer Counsel, and Energy Outreach Colorado in the design of the requirements regarding study focus and final reporting.

(II) Approval of the third-party vendor shall be the responsibility of the Commission. The CEO shall file with the Commission in the most recent annual report proceeding, a request for approval of the contract of the vendor selected. The Commission shall review and act on the request within 30 days.

(III) $00.0013 per customer per month shall be set aside by the utility starting in the 2016-2017 program year in order to cover the cost of the program evaluation described in paragraph 4412(k).

(IV) The dollars resulting from the $00.0013 charge shall be recovered as a program cost under subparagraph 4412(g)(III).

(V) The evaluation will be filed by Commission staff in the most recent miscellaneous proceeding for annual low income filings.

(VI) Staff and the CEO will assess the individual utilities' deferred balances set aside for the program evaluation starting in 2019 at the conclusion of the third program year and each three years thereafter and will determine the amounts each utility is to remit to the third party evaluator based on the contractual terms approved by the Commission for the evaluation.

(l) Annual report. No later than December 31, of each year the utility shall file a report in the most recent miscellaneous proceeding established by the Commission to receive annual low income filings using the form available on the Commission's website, based on the 12-month period ending October 31 containing the following information:

(I) monthly information on the program including number of participants, amount of benefit disbursement, type of benefit disbursement, LEAP benefits applied to the unaffordable portion of participant's bills, administrative costs, and revenue collection;

(II) the number of applicants for the program;

(III) the number of applicants qualified for the program;

(IV) the number of participants;

(V) the average assistance provided, both mean and median;

(VI) the maximum assistance provided to an individual participant;

(VII) the minimum assistance provided to an individual participant;

(VIII) total cost of the program and the average rate impact on non-participants by rate class, including impact based on typical monthly consumption of both its residential and small business customers;

(IX) the number of participants that had service discontinued as a result of late payment or non-payment, and the amount of uncollectable revenue from participants;

(X) an estimate of utility savings as a result of the implementation of the program (e.g., reduction in trips related to discontinuance of service, reduction in uncollectable revenue, etc.);

(XI) the average monthly and annual total natural gas consumption in PIPP participants' homes;

(XII) the average monthly and annual total natural gas consumption in the utility's residential customer's homes;

(XIII) the number of program participants referred to the weatherization program;

(XIV) a description of the ways in which the program is being integrated with existing energy efficiency of DSM programs offered by the utility;

(XV) a description of the ways in which the program is being integrated with existing weatherization programs offered by the state of Colorado;

(XVI) a description of program outreach strategies and metrics that illustrate the effectiveness of each outreach strategy;

(XVII) the number of participants at the start of the program year that the utility removed for any reason, the number of potential participants rejected because of the existence of a cap on the program, the period of arrearage time from date participants became eligible and were granted arrearage forgiveness, and the number of participants who came back as eligible participants in the program year after being eligible in a prior program year and were provided arrearage credits in the program year; and

(XVIII) a narrative summary of the utility's recommended program modifications based on report findings.

COLORADO DEPARTMENT OF REGULATORY AGENCIES

Public Utilities Commission

4 *CODE OF COLORADO REGULATIONS* (CCR) 723-4

PART 4
RULES REGULATING GAS UTILITIES AND PIPELINE OPERATORS

4412. Gas Service Low-Income Program.

(a) Scope and applicability.

(I) Gas utilities with Colorado retail customers shall provide low-income energy assistance by offering rates, charges, and services that grant a reasonable preference or advantage to residential low-income customers, as permitted by § 40-3-106, C.R.S.

(II) Rule 4412 is applicable to investor-owned gas utilities subject to rate regulation by the Commission.

(b) Definitions. The following definitions apply only in the context of rule 4412. In the event of a conflict between these definitions and a statutory definition, the statutory definition shall apply.

(I) "Administrative cost" means the utility's direct cost for labor (to include the cost of benefit loadings), materials, and other verifiable expenditures directly related to the administration and operation of the program not to exceed ten percent of the total cost of program credits applied against bills for current usage and pre-existing arrearages or $10,000, whichever amount is greater.

(II) "Affordable percentage of income payment" means the amount of the participant's annual bill deemed affordable under subparagraph 4412(e)(I).

(III) "Arrearage" means the past-due amount appearing, as of the date on which a participant newly enters the program, on the then most recent prior bill rendered to a participant for which they received the benefit of service.

(IV) "Colorado Energy Office" (CEO) means the Colorado Energy Office created in § 24-38.5-101, C.R.S.

(V) "Eligible low-income customer" means a residential utility customer who meets the household income thresholds pursuant to paragraph 4412(c).

(VI) "Fixed credit" means an annual bill credit established at the beginning of a participant's participation in a program each year delivered as a monthly credit on each participant's bill. The fixed credit is the participant's full annual bill minus the participant's affordable percentage of income payment obligation on the full annual bill.

(VII) “Full annual bill” means the current consumption of a participant billed at standard residential rates. The full annual bill of a participant is comprised of two parts: (1) that portion of the bill that is equal to the affordable percentage of income payment; and (2) that portion of the bill that exceeds the affordable percentage of income payment.

(VIII) “LEAP” means Low-Income Energy Assistance Program, a county-run, federally-funded, program supervised by the Colorado Department of Human Services, Division of Low-Income Energy Assistance.

(IX) “LEAP participant” means a utility customer who at the time of applying to participate in a program has been determined to be eligible for LEAP benefits by the Department during either the Department’s current six-month (November 1 – April 30) LEAP application period, if that period is open at the time the customer applies for program participation; or (the Department’s most recently closed six-month (November 1 – April 30) LEAP application period, if that period is closed at the time the customer applies to participate in the program and the Department’s next six-month (November 1 – April 30) LEAP application period has not yet opened, provided, however, that in order to retain status as a LEAP participant under this definition, the utility customer must apply to the Department during the Department’s next six-month (November 1 – April 30) LEAP benefit application period and be determined eligible for such benefits.

(X) “Non-participant” means a utility customer who is not receiving low-income assistance under rule 4412.

(XI) “Participant” means an eligible low-income residential utility customer who is granted the reasonable preference or advantage through participation in a gas service low-income program.

(XII) “Percentage of Income Payment Plan” (PIPP) means a payment plan for participants that does not exceed an affordable percentage of their household income as set forth in subparagraph 4412(e)(I).

(XIII) “Program” means a gas service low-income program approved under rule 4412.

(XIV) “Program credits” means the amount of benefits provided to participants to offset the unaffordable portion of a participant’s utility bill and /or dollar amounts credited to participants for arrearage forgiveness.

(XV) “Unaffordable portion” means the amount of the estimated full annual bill that exceeds the affordable percentage of income payment.

(c) Participant eligibility. Eligible participants are limited to those with a household income at or below 185 percent of the current federal poverty level and who otherwise meet the eligibility criteria set forth in rules of the Colorado Department of Human Services adopted pursuant to § 40-8.5-105, C.R.S.

(I) The utility shall obtain household income information from LEAP.

(II) If a participant's household income is $0, the utility may establish a process that verifies income on a more frequent basis.

(III) Program participants shall not be required to make payment on their utility account as a condition of entering into the program.

(d) Enrollment. Utilities shall be responsible for the methods by which participant enrollment in their approved low income program is obtained and sustained, however the utility should engage in enrollment processes that are efficient and attempt to maximize the potential benefits of participation in the low income program by low income customers.

(e) Payment plan.

(I) Participant payments for natural gas bills rendered to participants shall not exceed an affordable percentage of income payment. For accounts for which natural gas is the primary heating fuel, participant payments shall be no lower than two percent and not greater than three percent of the participant's household income.

(II) In the event that a primary heating fuel for any particular participant has been identified by LEAP, that determination shall be final.

(III) Notwithstanding the percentage of income limits established in subparagraph 4412(e)(I), a utility may establish minimum monthly payment amounts for participants with household income of $0, provided that the participant's minimum payment for a natural gas account shall be no more than $10.00 a month.

(IV) Full annual bill calculation. The utility shall be responsible for estimating a participant's full annual bill for the purpose of determining the unaffordable portion of the participant's full annual bill delivered as a fixed credit on the participant's monthly billing statement.

(V) Fixed credit benefit. The fixed credit shall be adjusted during a program year in the event that standard residential rates, including commodity or fuel charges change to the extent that the full annual bill at the new rates would differ from the full annual bill upon which the fixed credits are currently based by 25 percent or more.

(VI) Levelized budget billing participation. A utility shall enroll participants in its levelized budget billing program as a condition of participation in the program. Should a participant fail to meet monthly bill obligations and be placed by a utility in its regular delinquent collection cycle, the utility may remove the participant from levelized budget billing in accordance with the utility's levelized budget billing tariff.

(VII) Arrearage credits.

(A) Arrearage credits shall be applied to pre-existing arrearages.

(B) Arrearage credits shall be sufficient to reduce, when combined with participant copayments, if any, the pre-existing arrearages to $0.00 over a period not less than one month and not more than twenty-four months.

(C) Application of an arrearage credit to a participant account may be conditioned by the utility on one or more of the following:

(i) the receipt of regular participant payments toward bills for current usage; or

(ii) the payment of a participant copayment toward the arrearages so long as the participant's copayment total dollar amount does not exceed one percent of gross household income.

(D) Should the participant exit the program prior to the full forgiveness of all pre-existing arrearages, the amount of remaining pre-existing arrearages shall become due in accordance with the utilities tariff filed under rules 4401, 4407, and 4408.

(E) Pre-existing arrears under this subparagraph shall not serve as the basis for the termination of service for nonpayment or as the basis for any other utility collection activity while the customer is participating in the program.

(F) A participant may receive arrearage credits under this section even if that participant does not receive a credit toward current bills, if the participant enters into and maintains a levelized budget billing plan.

(VIII) Portability of benefits. A participant may continue to participate without reapplication should the participant change service addresses, but remain within the service territory of the utility providing the benefit, provided that the utility may make necessary adjustments in the levelized budget billing amount to reflect the changed circumstances. A participant who changes service addresses and does not remain within the service territory of the utility providing the benefit must reapply to become a participant at the participant's new service address.

(IX) Payment default provisions. Failure of a participant to make his or her monthly bill payments will result in a utility placing the participant in its regular collection cycle. Missed, partial or late payments shall not result in the removal of a participant from the program.

(f) Program implementation.

Each utility shall maintain effective terms and conditions in its tariffs on file with the Commission describing its low-income program.

(g) Cost recovery.

(I) Each utility shall include in its low income tariff terms and conditions how costs of the program will be recovered.

(II) Program cost recovery.

(A) Program cost recovery shall be based on a fixed monthly fee.

(B) The maximum impact on residential rates shall be no more than $1.00 per month.

(C) In order to determine monthly rates applicable to rate classes other than residential, program costs shall be allocated to each retail rate based on each rate class's share of the test year revenue requirement established in the utility's last Phase II rate case, or under another reasonable methodology supported by quantifiable information. The monthly rate per this subparagraph to be charged each rate schedule customer shall be clearly stated on a tariff sheet.

(D) Utilities shall separately account for the cumulative program cost recovery and cumulative program and administrative costs to determine if the net of program cost recovery and program and administrative cost are in balance during the program year.

(i) Beginning October 31, 2018 and in each year thereafter, the utility shall file a report with the Commission in the most recent miscellaneous proceeding for annual low-income filings detailing the net difference between program cost recovery and program costs as of September 30 of each year.

(1) Should the net difference of program cost recovery over program costs be greater than 50 percent derived in (ii) above, either positive or negative, and the utility is not currently at the maximum impact for non-participants, the utility shall file with the Commission an advice letter and tariff pages seeking approval for the rates determined in subparagraph 4412(g)(II)(D) in order to bring the projected recovery in balance for the ensuing 12 month period. The revised Residential charge shall not exceed the maximum impact for non-participants in subparagraph 4412(g)(II)(C).

(III) The following costs are eligible for recovery by a utility as program costs:

(A) program credits or discounts applied against bills for current usage;

(B) program credits applied against pre-existing arrearages;

(C) program administrative costs; and

(D) Commission-sponsored program evaluation costs required under paragraph 4412(k).

(IV) The utility shall apply, as an offset to cost recovery, all program expenses attributable to the program. Program expenses include utility operating costs; changes in the return requirement on cash working capital for carrying arrearages; changes in the cost of credit and collection activities directly related to low-income participants; and changes in uncollectable account costs for these participants.

(V) LEAP grants.

(A) The utility shall apply energy assistance grants provided to the participant by the LEAP program to the dollar value of credits granted to individual program participants.

(B) A utility shall apply any energy assistance benefit granted to the participant by LEAP to that portion of the program participant's full annual bill that exceeds the participant's affordable percentage of income payment.

(C) If the dollar value of the energy assistance grant is greater than the dollar value of the difference between the program participant's full annual bill and the participant's affordable percentage of income payment, the dollar amount by which the energy assistance grant exceeds the difference will be applied:

(i) first, to any pre-existing arrearages that at the time of the energy assistance grant continues to be outstanding; and

(ii) second, to the account of the program participant as a benefit to the participant.

(D) No portion of an energy assistance or LEAP grant provided to a program participant may be applied to the account of a participant other than the participant to whom the energy assistance grant was rendered.

(h) Other programs. In addition to the utility's low-income program, with Commission approval, a utility may offer other rate relief options to eligible households.

(I) Other programs offered by the utility under rule 4412 must be intended to reach low-income households that do not substantially benefit from the provisions of the low-income program. Such programs may take the form of discount rates, tiered discount rates or other direct bill relief methods where the low-income household benefitting from the program is granted a reasonable preference in tariffed rates assessed to all residential utility customers.

(II) Cost recovery for other programs combined with the Percentage of Income Payment Plan shall not exceed the maximum impact on residential rates described in subparagraph 4412(g)(II)(C).

(i) Energy efficiency and weatherization.

(I) The utility shall provide all program participants with information on energy efficiency programs offered by the utility or other entities and existing weatherization programs offered by the state of Colorado or other entities.

(II) The utility shall provide the Colorado Energy Office with the name and service address of participant households for which annual natural gas usage exceeds 600 therms annually.

(j) Stakeholder engagement. A utility shall conduct annual meetings with low-income stakeholders for the purpose of seeking solutions to issues of mutual concern and aligning program practices with the needs of customers and other stakeholders.

(k) Program evaluation. A triennial evaluation of the program provisions under rule 4412 beginning in 2019 shall be undertaken in order to review best practices in similar low income assistance programs in existence in other regulatory jurisdictions, as well as evaluate operation of each utility's program for effectiveness in achieving optimum support being provided to low income participants. The evaluation shall also recommend modifications if available that improve the delivery of benefits to participants and increase the efficiency and effectiveness of each program as they exist at the point of evaluation.

(I) Procurement of the third-party vendor that will perform the evaluation will be undertaken by the Colorado Energy Office. The CEO shall seek the involvement of interested stakeholders including, but not limited to, Commission staff, all Commission regulated electric and gas utilities, LEAP, the Office of Consumer Counsel, and Energy Outreach Colorado in the design of the requirements regarding study focus and final reporting.

(II) Approval of the third-party vendor shall be the responsibility of the Commission. The CEO shall file with the Commission in the most recent annual report proceeding, a request for approval of the contract of the vendor selected. The Commission shall review and act on the request within 30 days.

(III) $00.0013 per customer per month shall be set aside by the utility starting in the 2016-2017 program year in order to cover the cost of the program evaluation described in paragraph 4412(k).

(IV) The dollars resulting from the $00.0013 charge shall be recovered as a program cost under subparagraph 4412(g)(III).

(V) The evaluation will be filed by Commission staff in the most recent miscellaneous proceeding for annual low income filings.

(VI) Staff and the CEO will assess the individual utilities' deferred balances set aside for the program evaluation starting in 2019 at the conclusion of the third program year and each three years thereafter and will determine the amounts each utility is to remit to the third party evaluator based on the contractual terms approved by the Commission for the evaluation.

(l) Annual report. No later than December 31, of each year the utility shall file a report in the most recent miscellaneous proceeding established by the Commission to receive annual low income filings using the form available on the Commission's website, based on the 12-month period ending October 31 containing the following information:

(I) monthly information on the program including number of participants, amount of benefit disbursement, type of benefit disbursement, LEAP benefits applied to the unaffordable portion of participant's bills, administrative costs, and revenue collection;

(II) the number of applicants for the program;

(III) the number of applicants qualified for the program;

(IV) the number of participants;

(V) the average assistance provided, both mean and median;

(VI) the maximum assistance provided to an individual participant;

(VII) the minimum assistance provided to an individual participant;

(VIII) total cost of the program and the average rate impact on non-participants by rate class, including impact based on typical monthly consumption of both its residential and small business customers;

(IX) the number of participants that had service discontinued as a result of late payment or non-payment, and the amount of uncollectable revenue from participants;

(X) an estimate of utility savings as a result of the implementation of the program (e.g., reduction in trips related to discontinuance of service, reduction in uncollectable revenue, etc.);

(XI) the average monthly and annual total natural gas consumption in PIPP participants' homes;

(XII) the average monthly and annual total natural gas consumption in the utility's residential customer's homes;

(XIII) the number of program participants referred to the weatherization program;

(XIV) a description of the ways in which the program is being integrated with existing energy efficiency of DSM programs offered by the utility;

(XV) a description of the ways in which the program is being integrated with existing weatherization programs offered by the state of Colorado;

(XVI) a description of program outreach strategies and metrics that illustrate the effectiveness of each outreach strategy;

(XVII) the number of participants at the start of the program year that the utility removed for any reason, the number of potential participants rejected because of the existence of a cap on the program, the period of arrearage time from date participants became eligible and were granted arrearage forgiveness, and the number of participants who came back as eligible participants in the program year after being eligible in a prior program year and were provided arrearage credits in the program year; and

(XVIII) a narrative summary of the utility's recommended program modifications based on report findings.